

In re ) Fair Hearing No. 10,920  
 )  
Appeal of )

The petitioner appeals the decision by the Department of Social Welfare that she is liable to repay \$846.00 in ANFC benefits that were overpaid to her because of an error by the Department.

The facts are not in dispute. Some months ago the petitioner moved from Chittenden to Bennington County. However, the Department, which was fully aware of the move, did not adjust the petitioner's housing allowance to reflect the lower payments made to ANFC recipients who reside outside of Chittenden County.<sup>1</sup> By the time it discovered its error, the petitioner had received a total of \$846.00 in excess housing allowance payments.

The Department's decision is affirmed.

W.A.M. § 2234.2 includes the following provisions:

Overpayments of assistance, whether resulting from administrative error, client error or payments made pending a fair hearing which is subsequently determined in favor of the Department, shall be subject to recoupment. Recovery of an overpayment can be made

through repayment by the recipient of the overpayment, or by reducing the amount of payment being received by the ANFC group of which he is a member.

. . .

Recoupment shall be made each month from any gross income (without application of disregards), liquid resources and ANFC payments so long as the assistance unit retains from its combined income no less than 90% of the amount payable to an assistance unit of the same composition with no income.

If, however, the overpayment results from Department error or oversight, the assistance unit must retain from its combined income no less than 95% of the amount payable to an assistance unit of the same composition with no income. For assistance units with no other income, the amount of the recoupment will equal 5% of the grant amount.

. . .

Inasmuch as the Department's decision in this case is in accord with the above regulation, it must be affirmed.<sup>2</sup>

3 V.S.A. § 3091(d); Fair Hearing Rule No. 19.

#### FOOTNOTES

<sup>1</sup>See W.A.M. § 2245.3.

<sup>2</sup>The Department concedes that the overpayment resulted from its own error and that, therefore, the petitioner's benefits will be reduced by only 5% a month until the entire amount is recouped.

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